

LABOUR AND EMPLOYMENT DEPARTMENT

ORDER

The 28th September, 1971

No. 87891-5Lab-71/31828.—In exercise of the powers conferred by Regulation 76 of the Employees' State Insurance (General) Regulations, 1950, the Governor of Haryana is pleased to order that the staff and members of Medical Appeal Tribunal, constituted,—*vide* Haryana Government Order No. 4799-5Lab-1-71, dated the 6th July, 1971, shall be paid on the following basis :—

- | | |
|------------------------|---|
| 1. Chairman | .. Rs. 32 per case finally disposed of |
| 2. Medical Assessors | .. Rs. 32 per case finally disposed of |
| 3. Trade Union Members | .. Rs. 7 per case finally disposed of |
| 4. Staff | .. Rs. 15 per case finally disposed of. |

2. The Chairman Medical Appeal Tribunal shall decide to which particular staff Member/Members the amount of Rs. 15 is to be distributed and paid. The payment of fees shall be made by the State Government in the first instance and get the reimbursement of the same from the Corporation subsequently.

B. L. AHUJA,

Commissioner & Secy.

LABOUR DEPARTMENT

The 8th October, 1971

No. 11005-4Lab-71/33305. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s. Globe Motor Workshop Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 77 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF M/S GLOBE MOTOR WORKSHOP
LTD., FARIDABAD

Present :

Shri Krishan Kumar Sharma for the workmen.

Shri G. R. Shah for the management.]

AWARD

An Industrial dispute existing between the management of M/s. Globe Motor Workshop Ltd., Faridabad and its employees with regard to payment of bonus for the year 1967-1968 was referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID/FD/129F/30681-85 dated 21st November, 1969 the terms of reference being as given under :—

Whether the workmen are entitled to the grant of bonus for the year 1967-68, If so, with what details?

On receipt of the reference from the Government usual notices were given to the parties. The workmen put in their statement of claim on 15th December, 1969 contending that the management had been making huge profits and the workmen had been paid bonus at 20% during the past years and as such they were entitled to bonus at the same rate for the year 1967-68.

The management filed the written statement on 6th January, 1970 with the allegations that bonus had been paid to the workers at 10% as an interim measure because the accounts of the company for the relevant period were under audit and the final figure for bonus due could not be determined till the audit was completed. Thereafter, no separate written statement was filed on behalf of the management although the balance sheet and statement of profit and loss account for the period in question were produced and the stand taken was that the company had since run into huge loss, it was not in a position to pay bonus to the workers at a rate higher than 10%.

On the above pleadings of the parties, the only issue that arose for determination in the case was as per the term of reference stated above.

Shri G.R. Shah authorised representative of the management made his statement on 27th October, 1970 that the respondent company had suffered loss amounting to Rs. 5,93,626.17 during the year 1967-68 but still bonus had been paid to the workers at 10%.

The workmen examined two witnesses, namely, Jamni Dass W.W.1 and Hans Raj W.W.2 who deposed that the management had been making profits and they had been given an assurance that bonus would be paid to them at 20% for the year 1967-68 as before. According to Shri Hans Raj W.W.2 a notice to this effect had also been exhibited on the notice board in the factory premises and the signatures of the workers had been obtained on the notice. No other evidence has been produced on behalf of the workmen.

The management has examined its chief Executive Shri N. P. Jalan who has deposed that the management had run into loss in the year 1967-68 and the audit of the accounts of the company for the said period was completed in 1970. He has proved the balance sheet and the profit and loss account statement for the relevant period which are Exhibit M.W. 1/1 and Exhibit M.W. 1/2. The witness has further deposed that due to loss incurred by the company, the management had to resort to lay off of some of the workers but in spite of the losses the workers had been paid 10% bonus as a good will and to give them incentive for work as the management was hopeful of making profits in future. The management has also produced the balance sheet for the period ending 31st March, 1967 as desired by the authorised representative of the workmen.

Arguments have been addressed on both sides and I have given due consideration to the facts on record. It is common ground between the parties that bonus at 10% had already been paid to the workers for the relevant period 1967-68. The workers have demanded bonus at 20% as had been paid to them for the previous year. Their claim has been contested by the management on the simple ground that the management had since run into losses amounting to Rs. 5,93,626.17 in the year 1967-68, it was not in a position to pay bonus even at 10% but the same had been paid by way of good will and to give incentive to the workers as the management was hopeful of making profits in the future. This contention of the management finds full support in the balance sheet and the profit and loss account statement filed for the above period which are duly audited by Registered Auditor. There is a presumption of correctness about these accounts and the workers have not been able to dislodge this presumption. The statement of Shri N. P. Jalan, the Chief Executive of the respondent company which finds corroboration in the documentary evidence consisting of the balance sheet and the profit and loss account statement has to be believed as against the vague and oral testimony of the two witnesses examined on behalf of the workmen. According to the testimony of W.W. 1 Shri Jamni Dass, the member of the workers in the factory had been reduced from 300 to 34 only which is indicative of the fact that on account of huge loss suffered by the company it had to lay off a large number of workers as stated by Shri N.P. Jalan M.W. 1.

So, taking into consideration the facts and the circumstances of the case discussed above, I am quite clear in my mind that the management is not in a position to pay bonus to the workers for the year 1967-68 at a rate higher than 10 per cent which has admittedly been paid to them. The issue is, therefore, decided against the workmen and the award is accordingly made but with no order as to costs.

O. P. SHARMA,

The 29th September, 1971.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1056, dated 29th September, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 29th September, 1971.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.